

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JESSE ARON ROSS,

Plaintiff,

vs.

AMY KRUEGER, et al.,

Defendants.

2:13-cv-00355-GMN-VCF

ORDER

[Motion Requesting this Court to Order the U.S. Marshals to Serve Defendant Danita Rounseville (#s 80 & 81)]

Before the Court are Plaintiff's two Motions Requesting this Court to Order the U.S. Marshals to Serve Defendant Danita Rounseville. (#s 80 and 81). Plaintiff requests the Court to order the U.S. Marshal to effectuate service upon Defendant Danita Rounseville.

Background:

On February 21, 2014, Plaintiff was granted leave to file his Second Amended Complaint to add Nye County and Anthony Demeo as additional defendants. (#71). Defendants, Amy Krueger, Anthony DeMeo, Brian Young, Carina Skyles, Danny Ellis, Jadey Zaragoza, Karyn Smith, Melissa Taylor, Ricardo Ramirez, Richard Mashall, Scott Gutheridge, Shirley Trummell, Terry Rising, Greg Arms, Gary Hollis, Butch Borasky, Lorinda Wichman, and Nye County, filed their Answer to Plaintiff's Second Amended Complaint on March 14, 2014. (#75). On March 18, 2014, Plaintiff filed his Motion Requesting the Court to Order Service Upon Newly Added Defendants by U.S. Marshals Service (#76). The Court denied as moot Plaintiff's Motion (#76) to Serve newly added Defendants Nye County and Anthony Demeo since they filed an Answer on March 14, 2014. (#79). On May 1, 2014, Plaintiff filed a Motion Requesting this Court to Order the U.S. Marshal to Serve Defendant Danita Rounseville the First Amended Complaint (#8). (#80). On June 16, 2014, Plaintiff filed a second Motion Requesting

1 this Court to Order the U.S. Marshal to Serve Defendant Danita Rounseville. (#81). Plaintiff seeks the
2 Court to order the Court Clerk to re-issue the Summons for Defendant Rounseville, to provide Plaintiff
3 with new USM-285 forms, and to order the U.S. Marshal to serve Defendant Rounseville.

4 **Analysis:**

5 Plaintiff's first Motion Requesting this Court to Order the U.S. Marshal to Serve Defendant
6 Danita Rounseville the First Amended Complaint (#80) is DENIED as MOOT. On February 21, 2014,
7 the Honorable Chief District Judge Gloria Navarro granted Plaintiff's Motion to file a Second Amended
8 Complaint. (#71). Thus, Plaintiff's Second Amended Complaint (#72) was filed on February 21, 2014
9 (#72). Once Plaintiff's Second Amended Complaint (#72) was filed, it becomes the operative complaint
10 which renders the findings in Court Order (#69) with regards to the extension of time to perfect service
11 on Defendant Rounseville on the First Amended Complaint moot.

12 On June 16, 2014, Plaintiff filed a second Motion Requesting this Court to Order the U.S.
13 Marshal to Serve Defendant Danita Rounseville. (#81). Plaintiff seeks the Court to order the Court
14 Clerk to re-issue the Summons for Defendant Rounseville, to provide Plaintiff with new USM-285
15 forms, and to order the U.S. Marshal to serve Defendant Rounseville. Plaintiff does not provide any
16 legal arguments but still relies on Court Order (#69) which extended the time to perfect service on
17 Defendant Rounseville on the First Amended Complaint. As explained in the above paragraph, Court
18 Order #69 is no longer applicable with regard to the time to serve Defendant Rounseville. Once
19 Plaintiff's Motion for Leave to file his Second Amended Complaint (#68) was granted and the Second
20 Amended Complaint (#72) becomes the operative complaint. On March 14, 2014, Defendants Amy
21 Krueger, Anthony DeMeo, Brian Young, Carina Skyles, Danny Ellis, Jadey Zaragoza, Karyn Smith,
22 Melissa Taylor, Ricardo Ramirez, Richard Mashall, Scott Gutheridge, Shirley Trummell, Terry Rising,
23 Greg Arms, Gary Hollis, Butch Borasky, Lorinda Wichman, and Nye County, filed their Answer to
24 Plaintiff's Second Amended Complaint. (#75). Only Defendant Danita Rounseville remains to be
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1 served with Plaintiff's Second Amended Complaint. To date, the Court Clerk has not been ordered to
2 issue Summons to Defendant Danita Rounseville and deliver same to the U.S. Marshal for service.
3 Thus, the Court grants Plaintiff's second Motion Requesting this Court to Order the U.S. Marshal to
4 Serve Defendant Danita Rounseville (#81).

5 Accordingly, and for good cause shown,

6 IT IS HEREBY ORDERED that Plaintiff's second Motion Requesting this Court to Order the
7 U.S. Marshal to Serve Defendant Danita Rounseville (#81) is GRANTED.

8 IT IS FURTHER ORDERED that the clerk will issue Summons as to Defendant Danita
9 Rounseville, and deliver same to the U.S. Marshal for service. The clerk will send to Plaintiff a copy of
10 the USM-285 form, one copy of the Second Amended Complaint (#75) and a copy of this order.
11 Plaintiff has twenty (20) days in which to furnish to the U.S. Marshal the required Form USM-285.
12 Within twenty (20) days after receiving from the U.S. Marshal a copy of the Form USM-285 showing
13 whether service has been accomplished, Plaintiff must file a notice with the court identifying if
14 Defendant Danita Rounseville was served. If Plaintiff wishes to have service again attempted on the
15 unserved defendant, then a motion must be filed with the court identifying the unserved defendant and
16 specifying a more detailed name and/or address for said defendant, or whether some other manner of
17 service should be attempted.

18 IT IS FURTHER ORDERED that Plaintiff must perfect service on Defendant Rounseville on or
19 before August 20, 2014.

20 IT IS FURTHER ORDERED that henceforth, Plaintiff must serve upon Defendant Rounseville
21 or, if appearance has been entered by counsel, upon the attorney(s), a copy of every pleading, motion or
22 other document submitted for consideration by the court. Plaintiff must include with the original paper
23 submitted for filing a certificate stating the date that a true and correct copy of the document was mailed
24 to the Defendant Rounseville or his/her counsel. The court may disregard any paper received by a
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1 district judge or magistrate judge which has not been filed with the clerk, and any paper received by a
2 district judge, magistrate judge or the clerk which fails to include a certificate of service.

3 IT IS FURTHER ORDERED that Plaintiff's Motion Requesting this Court to Order the U.S.
4 Marshal to Serve Defendant Danita Rounseville (#80) is DENIED as MOOT.

5 IT IS SO ORDERED.

6 DATED this 20th day of June, 2014.



7 CAM FERENBACH
8 UNITED STATES MAGISTRATE JUDGE
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